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In the Supreme Court of the United States

OCTOBER TERM, 1987

JOSEPH P. RUSSONIELLO, ET AL., PETITIONERS

v.

JOSE J. OLAGUES, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

MEMORANDUM FOR PETITIONERS IN RESPONSE TO RESPONDENTS' MOTION TO VACATE ON GROUNDS OF MOOTNESS

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2 pp

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On April 20, 1987, the Court granted our petition for a writ of certiorari and, in addition, invited the parties to brief whether the court below was correct in holding that the case was not moot. On July 2, 1987, we filed our brief on the merits.

Respondents have not yet filed their brief on the merits. They have instead filed a motion with this Court arguing that the case is moot and that the judgment of the court below should be vacated and remanded with instructions that the district court be directed to dismiss the prayers for injunctive and declaratory relief. As explained in our brief on the merits (at 16-22), we agree with respondents' conclusion, though our reasons for finding that this case is moot are substantially different.

Respectfully submitted.

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Solicitor General

JULY 1987

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